

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

KNIGHT FIRST AMENDMENT  
INSTITUTE AT COLUMBIA  
UNIVERSITY,

Plaintiff,

v.

OFFICE OF THE DIRECTOR OF  
NATIONAL INTELLIGENCE; PUBLIC  
INTEREST DECLASSIFICATION BOARD;  
and CENTRAL INTELLIGENCE AGENCY,

Defendants.

Civil Action No. 22-9096

**COMPLAINT FOR INJUNCTIVE RELIEF**

**INTRODUCTION**

1. This lawsuit under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, seeks the immediate release of records from the Office of the Director of National Intelligence (“ODNI”), the Public Interest Declassification Board (“PIDB”), and the Central Intelligence Agency (“CIA”) concerning the killing of Jamal Khashoggi—a journalist, a U.S. resident, and a prominent critic of Saudi Arabia.

2. Khashoggi was killed after entering the Saudi consulate in Istanbul on October 2, 2018. According to news reports and intelligence assessments conducted by the U.S. government, he was killed by Saudi agents with the approval of Saudi Crown Prince Mohammed Bin Salman. Although the U.S. government released redacted versions of two of its intelligence assessments in 2021, it continues to withhold as classified a full intelligence report, as well as much of the evidence gathered during its investigation.

3. In September 2020, Senator Chris Murphy asked the PIDB to review the full U.S. intelligence report on Khashoggi's killing and decide whether to recommend to President Biden that it be declassified. The PIDB is a panel of experts established by Congress to advise the President on the declassification of U.S. national security records, for the purpose of ensuring the fullest possible public access to those records. The PIDB completed its review in June 2022 and voted unanimously to recommend that the report be "declassified in its entirety."

4. Despite the PIDB's unanimous recommendation, President Biden has not declassified the report.

5. To obtain the records related to the killing of Jamal Khashoggi that the PIDB recommended be declassified, Plaintiff the Knight First Amendment Institute at Columbia University (the "Knight Institute" or "Plaintiff") submitted FOIA requests on October 6, 2022 to the ODNI, PIDB, and CIA.

6. Plaintiff brings this action because none of the Defendants has granted its request for expedited processing, and because none of the Defendants has released records in response to the requests. Plaintiff seeks the injunctive relief necessary to ensure the Defendants' timely compliance with FOIA's requirements.

### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

8. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B).

### **PARTIES**

9. The Knight First Amendment Institute at Columbia University is a New York not-for-profit corporation based at Columbia University that works to preserve and expand the freedoms of speech and the press through strategic litigation, research, and public education.

Public education is essential to the Knight Institute’s mission. Obtaining information about government activity, analyzing that information, and publishing and disseminating it to the press and public are among the core activities the Knight Institute was established to conduct. The Knight Institute is a “person” within the meaning of 5 U.S.C. § 551(2).

10. Defendant ODNI is an “agency” within the meaning of 5 U.S.C. §552(f). The ODNI has possession and control over some or all of the requested records.

11. Defendant PIDB is an “agency” within the meaning of 5 U.S.C. §552(f). The PIDB has possession and control over some or all of the requested records.

12. Defendant CIA is an “agency” within the meaning of 5 U.S.C. §552(f). The CIA has possession and control over some or all of the requested records.

## **FACTUAL ALLEGATIONS**

### ***The FOIA Requests***

13. On October 6, 2022, Plaintiff submitted identical FOIA requests to the ODNI, PIDB, and CIA seeking records “related to the killing of Jamal Khashoggi, including a report the Public Interest Declassification Board recommended that President Biden declassify in its entirety.”<sup>1</sup>

14. Specifically, the requests seek the following documents:

- a. All records related to the killing of Jamal Khashoggi that the Public Interest Declassification Board (“PIDB”) recommended be declassified.
- b. All correspondence in which the PIDB concluded or recommended that records related to the killing of Jamal Khashoggi should be declassified.

15. The Knight Institute requested expedited processing of the requests on the ground that there is a “compelling need” for the records sought because they contain information

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<sup>1</sup> A true and correct copy of each request is attached hereto as Exhibit A.

“urgent[ly]” needed to “inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II).

16. The Knight Institute also requested a waiver of document search, review, and duplication fees on the grounds that (a) disclosure of the requested records is in the public interest and is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester,” 5 U.S.C. § 552(a)(4)(A)(iii); (b) the Knight Institute is an “educational . . . institution” whose purposes include “scholarly . . . research” and the records are not sought for commercial use, 5 U.S.C. § 552(a)(4)(A)(ii)(II); and (c) the Knight Institute is a “representative of the news media” within the meaning of FOIA and the records are not sought for commercial use, 5 U.S.C. § 552(a)(4)(A)(ii)(II).

#### *Agency Responses*

17. By letter dated October 14, 2022, the ODNI acknowledged receipt of the request and assigned it reference number DF-2023-00008. The ODNI denied the Knight Institute’s request for expedited processing, asserting that “the ODNI standards for expedited processing established in 32 CFR 1700.12 have not been met.” The ODNI did, however, grant the Knight Institute’s request for a fee waiver. To date, the ODNI has not released any records responsive to the request.

18. By email dated October 14, 2022, the PIDB acknowledged receipt of the request and assigned it reference number PIDB23-001. The PIDB neither granted nor denied the Knight Institute’s request for expedited processing. To date, the PIDB has not released any records responsive to the request.

19. Although the FOIA request was delivered by mail to the CIA on October 7, 2022, the CIA has not acknowledged receipt of the request and has not responded to the request in any way, including with respect to the Knight Institute's request for expedited processing.

### **CAUSES OF ACTION**

20. Defendants' failure to grant the Knight Institute's requests for expedited processing violates FOIA, 5 U.S.C. § 552(a)(6)(E), and Defendants' corresponding regulations.

21. Defendants' failure to process Plaintiff's requests as soon as practicable violates FOIA, 5 U.S.C. § 552(a)(6)(E)(iii), and Defendants' corresponding regulations.

### **PRAYER FOR RELIEF**

Plaintiff respectfully requests that this Court:

- A. Order Defendants to conduct a thorough search for records responsive to Plaintiff's requests;
- B. Order Defendants to immediately process and release any responsive records;
- C. Award Plaintiff its reasonable costs and attorneys' fees incurred in this action; and
- D. Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

*s/ Scott Wilkens*

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